

Judge Galbreath Sparks Salty

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NASHVILLE — Testimony before the special legislative committee hearing ouster charges against Criminal Appeals Court Judge Charles Galbreath of Nashville continued here today after an opening session sparked by pointed exchanges between Galbreath and two fellow jurists.

Scheduled to testify today were Criminal Appeals Court Judge William S. Russell, of Shelbyville, Judicial Standards Commission Chairman Earnest Taylor, of Morristown, and five others.

While four witnesses testified yesterday that they thought Galbreath had performed adequately in his post, Supreme Court Chief Justice Joe Henry of Pulaski, and Criminal Appeals Court Judge Martha Craig Daughtrey of Nashville said Galbreath's behavior had discredited the entire judiciary and was conduct unbecoming an appellate judge.

THE 10-MEMBER legislative committee is charged with recommending action on six of seven charges against the controversial judge to the full Legislature. If all testimony can be completed today, the committee may make such a recommendation by tomorrow morning.

As its first order of business yesterday, the committee dropped one of the seven charges. That one concerned allegations that Galbreath had been arrested for jaywalking in Columbus, Ohio, last year while visiting with Hustler Magazine publisher Larry Flynt.

Other charges against Galbreath by the Judicial Standards Commission include accusations that he had failed to adequately study and dispose of the cases before him, publicly criticized a local police fence operation, used profane remarks on the bench, allowed his law clerk to engage in private law practice, and that he wrote a salty letter to Flynt on official court stationery.

AN ATTEMPT to strike the charge concerning the letter to Flynt, which was reprinted in Hustler, failed in the committee by one vote yesterday.

The letter brought on the most heated exchange in yesterday's testimony.

"You're sick, Charlie, to have written such a letter," Henry said in response to questioning from Galbreath. Galbreath performed most of his own cross examinations of the witnesses, although his attorney, former constitutional convention President J.D. Lee of Madisonville, was present.

Galbreath asked the chief justice if he



Judge Charles Galbreath

had never written letters to editors of legal journals or other publications.

"I would not have made it so pornographic and obscene that a man would blush," Henry replied.

"And what about the opposite page?" Galbreath asked, concerning the placement of the letter in the magazine.

"I SEEM to recall there was a picture of a naked man rather comfortably endowed," Henry said.

"Let me distinguish between your depravity and mine," Galbreath told the chief justice. "I don't recall that picture."

Henry criticized Galbreath for using "gutter-type" language in the letter, and although Galbreath said that the letter had been printed without his permission and equally embarrassed him in printed form, he had insisted that he had the First Amendment right to write the letter.

"I'm just not sure an appellate judge has that right," Henry said. "There are a lot of things we don't do because we are judges." Earlier, Justice Henry had said judges "forfeit" certain constitutional rights upon taking office.

THE LETTER, Galbreath said, concerned a case involving a Tennessee man sentenced to seven years in prison for a crime against nature conviction.

After the exchange, Galbreath sought to strike portions of Henry's testimony from the record, but no action was taken.

"This is character assassination I

cannot allow to go unchallenged," Galbreath said in reference to Henry's remark that Galbreath was "sick."

"I've never been so shocked in all my life as when I heard Chief Justice Henry's comments," Galbreath said. "I've suffered through some of the sickness of Joe Henry as a citizen of this state. It was the most unprofessional, unchristian, ungentleman-like statement I have ever heard a public figure make, at least regarding me."

Earlier, Galbreath had asked Henry

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why he had not told him to "straighten up" if other jurists were displeased with Galbreath's work.

"I told you one time you were a walking media event and to stop talking so much for publication," Henry replied.

Henry outlined several instances in which he said Galbreath had violated the canons of judicial conduct, but Galbreath also put the chief justice on the spot by asking him about a section prohibiting nepotism and favoritism.

HENRY THEN admitted that his wife

had served as his secretary from 1946 until 1974, but that she quit 28 days after the nepotism canon was adopted.

"The canon was directed against hiring incompetent relatives, or relatives who do not work," Henry said. "You haven't had any hesitancy about hiring your relatives," he told Galbreath.

The proceedings were interrupted several times by Sen. Jim White (D-Memphis), chairman of the committee, to stop running debates between Galbreath and the witnesses.

Shelby County Dist. Atty. Gen. Hugh Stanton, Shelby County Public Defender Ed Thompson, Memphis State University law professor Joe A. Moore and Chattanooga lawyer Jerry H. Bombers, president of the Tennessee Trial Lawyers Association, all spoke in Galbreath's behalf.

"I find no fault with his abilities as a judge," Stanton said. The others made similar statements, doubting the seriousness of any of the charges as cause for removal from the bench.